IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 14088 of 1994

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ADMINISTRATOR,DELWADA GRAM PANCHAYAT - Petitioner(s)

Versus

BHANUMATI VALJI ZALA - Respondent(s)

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Appearance :

MS SEJAL K MANDAVIA for Petitioner No(s).: 1.

RULE SERVED for Respondent No(s).: 1.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 05/07/2005

ORAL JUDGMENT

1.0 The petitioner has challenged the order dated 19.03.1994 passed by the Labour Court, Junagadh in

Reference LCJ No.543 of 1990, whereby the said reference was allowed.

2.0 The petitioner Gram Panchayat is a body Corporate constituted under the provisions of the Gujarat Panchayats Act, 1961. The respondent was appointed as an Assistant Mahila Sanchalika since 01.06.1976 in the petitioner Panchayat. Her services were terminated w.e.f. 01.02.1985. Feeling aggrieved by the said order, the respondent raised a dispute by way of a reference before the Labour Court, Junagadh. The Labour Court, by impugned order dated 19.03.1994, allowed the said reference. Hence, this petition.

3.0 Ms. S.K. Mandavia learned advocate for the petitioner has contended that the petitioner Panchayat is not an “industry” under the provisions of the Industrial Disputes Act, 1947 since the “Bal Mandir” did not earn any profits to the Panchayat. She has submitted that the “Bal Mandir” was closed since the building in which the “Bal Mandir” was running was damaged and the Panchayat did not have any other building to run the same.

4.0 Though served none appears for the respondent. I have heard learned counsel for the petitioner and perused the documents placed on record. Since it is submitted by the learned advocate for the petitioner that the “Bal Mandir” has been closed down, in the interest of justice, it would be appropriate to remand the matter for adjudication afresh on the question as to whether the matter shall be governed by the provisions of the Industrial Disputes Act, 1947 or not and as to whether the order of reinstatement can be confirmed or not.

5.0 In above view of the matter, the impugned order of the Labour Court, Junagadh, is quashed and set aside. The matter is remanded for adjudication afresh. Since the reference is of the year 1994, the Labour Court will decide the same within one year from the receipt of writ of this order. Rule is made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

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